

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM LLC,)
Plaintiff,)
v.)
DAVID W. HOYLE, in his official)
capacity as Secretary of the North)
Carolina Department of Revenue,)
Defendant.)

) No. 2:10-cv-00664-MJP
)
NOTICE OF AMENDMENT OF
COMPLAINT WITH DEFENDANT'S
CONSENT PURSUANT TO RULE
15(a)(2) OF THE FEDERAL RULES OF
CIVIL PROCEDURE

Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, Amazon.com LLC, hereby amends its Complaint (Dkt. 1) to remove all references to its claim asserted under the Washington State Constitution, article I, Sections 4 and 5. Specifically, Amazon removes all references to the Washington State Constitution found in its Complaint at: p. 4 ¶ 8; p. 11 (heading for Count I); p. 12 ¶ 46; and p. 14 ¶ 2 (request for relief).

On October 25, 2010, the Court issued an Order on Plaintiff's Motion for Summary Judgment and Defendant Lay's Motion to Dismiss ("Order"). (Dkt. 69.) The Order granted Amazon's Motion for Summary Judgment (Dkt. 44) on all claims except Amazon's claim for relief under Article I, Sections 4 and 5 of the Washington State Constitution. (Order at 22.) Defendant has consented in writing to the amendment of Amazon's Complaint to eliminate

1 this unresolved claim. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure,
2 Amazon therefore amends its Complaint as a matter of right to remove its claim under the
3 Washington State Constitution. *See* 6 Charles Alan Wright, Arthur R. Miller & Mary Kay
4 Kane, FEDERAL PRACTICE & PROCEDURE § 1479 (2010) (discussing use of Rule 15(a)(2) to
5 eliminate less than all claims stated in a complaint); *Etheridge v. Harbor House Restaurant*,
6 861 F.2d 1389, 1392 (9th Cir. 1988) (agreeing with cases holding that Rule 15(a)(2) "is the
7 appropriate mechanism where a plaintiff desires to eliminate an issue, or one or more but less
8 than all of several claims") (internal citation omitted and punctuation altered).

9 DATED this 26th day of January, 2011.

10 DAVIS WRIGHT TREMAINE LLP
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21 Attorneys for Amazon.com LLC
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CERTIFICATE OF SERVICE

2 I hereby certify that on January 26, 2011, I electronically filed the foregoing with the
3 Clerk of the Court using the CM/ECF system, which will send notification of such filing to all
4 parties listed to receive electronic notice in this case.

5 DATED this 26th day of January 2011.
6

7 DAVIS WRIGHT TREMAINE LLP
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